

SB 77 Floor Report

**June 15, 2005
SENATE REPUBLICAN
FISCAL OFFICE**



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Overview

SB 77 is the Conference Committee version of the Governor's Budget as proposed in the May Revision. It proposes spending \$172.9 billion, of which \$89.2 billion is General Fund.

The May Revision improved upon the Governor's Budget in many ways, and it contained a number of features that are consistent with the goals of the Senate Republicans. ***SB 77 has eliminated or reduced a number of those key features***, while adding some components that increase ongoing expenditures.

Changes in Overall General Fund Expenditures: The May Revision proposed to spend \$88.5 billion in General Fund in 2005-06. SB 77 would spend \$89.2 billion, which is a **13.4 percent increase** over the \$78.7 billion in General Fund authorized in the 2004 Budget Act.

Table 1 below provides some detail of the changes to the May Revision contained in SB 77. As is evident, the greatest differences came in the areas of Local Government (-\$493.7 million), Health and Human Services (\$352.9 million), and Education (\$229.8 million).

Table 1

Comparison of 2005-06 May Revision and SB 77 Expenditures by Agency (Dollars in millions)				
AGENCY	May Revision	Conference	Difference	% Change
Legislative, Judicial, and Executive	\$3,120	\$3,114	-\$5.56	-0.18%
State and Consumer Services	576	564	-12.41	-2.15%
Business, Transportation, and Housing Resources	1,702	1,694	-7.66	-0.45%
CA Environmental Protection Agency	1,352	1,354	2.89	0.21%
Health and Human Services	78	79	1.00	1.27%
Corrections and Rehabilitation	26,834	27,187	352.93	1.32%
K thru 12 Education	7,259	7,422	162.51	2.24%
Higher Education-Community Colleges	36,118	36,347	229.79	0.64%
Higher Education-UC, CSU and Other	3,684	3,705	20.72	0.56%
Labor and Workforce Development Agency	6,487	6,518	31.44	0.48%
General Administration	92	92	-0.42	-0.45%
Tax Relief	356	454	97.23	27.28%
Local Government Subventions	676	675	-0.66	-0.10%
Debt Service	810	316	-493.73	-60.95%
Statewide Expenditures	220	162	-58.50	-26.54%
Augmentation for Employee Compensation	557	545	-11.21	-2.01%
Statewide Savings	162	163	1.11	0.69%
Total	-1,558	-1,151	407.71	-26.16%
	\$88,525	\$89,242	\$717.20	0.81%

SB 77 Does Not Contain Meaningful Budgetary Reforms. SB 77 does not improve the long-term fiscal picture over the Governor's May Revision, and, by rejecting the Governor's proposed VLF prepayment mentioned below, and a number of the other significant savings proposals contained in the May Revision, it ***makes the out-year picture worse.***

With SB 77, the state will continue to spend more each year than it takes in, and will still carry an operating deficit of approximately \$4.8 billion that has yet to be addressed. Without meaningful structural reform, California will continue to face an annual imbalance that could grow should the economy take a turn for the worse.

Significant highlights of SB 77 include:

- **Eliminates the Partial Funding of the Vehicle License Fee (VLF) Gap Loan Repayment:** The May Revision would have prepaid half of the funding owed to local governments (about \$593 million) for VLF fees they did not receive in 2003-04, and that come due in 2006-07. This bill eliminates this prepayment, and instead spends those funds on ongoing activities.
- **Potentially Bifurcates Education Spending:** This bill spends about the same amount on education as the Governor's May Revision \$49.967 billion. ***However,*** the Democrats have indicated that they plan to introduce a proposal that will increase revenues and expenditures for education by around \$2 billion, separate from the budget bill.
Additionally, this bill rejects the Governor's proposal to eliminate STRS defined benefit funding shift of \$469 million (non-Prop. 98), effectively providing more for school districts than was contemplated in the Governor's Budget.
- Provides K-12 per-pupil funding of \$7,402, and total K-12 per-pupil funding from all sources of \$10,201.
- Reduces Community College Equalization Funding proposed by the Administration to \$20 Million (\$40 million originally proposed in the May Revision).
- Provides ***no*** equalization funding for K-12 schools (full equalization would require an estimated \$460 million beyond the \$110 million provided in 2004-05).
- Rejects the Governor's proposed child care reforms which would have saved almost \$170 million annually.
- Rejects the Governor's IHSS wage reductions, CalWORKs Savings Proposals, Child Care Reforms, and the Federal IHSS COLA pass through proposal. (-\$463.6 million)
- Provides \$120 million (\$60 million for 2004-05/2005-06) for the AB 3632 Mandate Reimbursement (ON TOP of the \$100 million already provided in the education budget)
- Contains \$38.9 million in additional fees, including Commercial Fish Landing Fees (\$6M) and CEQA Permit Fees (\$5M).
- Adds \$17.3 million in additional General Fund for outreach (diversity-enhancing) activities at UC, \$7 million to restore an unallocated reduction at CSU, and \$3.8 million for the UC Labor Institute.

Some components in SB 77 are consistent with the Governor's May Revision:

- **Does Not Rely Upon Economic Recovery Bond (ERB) Funding in 2005-06:** Due to a significant increase in one-time revenue, the Governor withdrew his proposal to utilize \$1.683 billion in Economic Recovery Bond (ERB) funding in 2005-06, retaining remaining bond capacity in anticipation of future need. SB 77 is consistent with that proposal.
- **Fully Funds Proposition 42 Transfer.** The May Revision provided \$1.3 billion to provide funding for badly needed transportation infrastructure investment. SB 77 provides the same level of funding.
- **Beginning in 2005-06, Suspends the State SSI/SSP COLA and CalWORKs COLA for two years.** (\$665 million in reported savings for 2006-07). This proposal was in the Governor's Budget for 2005-06; however, by continuing it for two-years, the majority has indicated that this funding will replace the VLF prepayment funds budgeted in the May Revision. (Budget year savings were already incorporated into the Governor's May Revision.)
- **Increases Funding for Community Colleges.** Total Community College funding from all sources is increased by almost half a billion dollars, to over \$8 billion.

Education

SB 77 provides about \$50 billion in Proposition 98 funding for K-12 schools and Community Colleges in 2005-06, up by about \$3 billion from 2004-05. Total funding from all sources for K-12 education will exceed \$61.5 billion.

Proposition 98 Overappropriated. The Governor's proposal to exceed the minimum Proposition 98 guarantee by about half a billion dollars is reflected in this measure. The 2005-06 guarantee has fallen since January by about half a billion dollars. However, the Governor did not lower proposed Proposition 98 spending to conform to the minimum guarantee. SB 77 reflects the Governor's proposed level of spending, which would overappropriate the guarantee by over \$490 million (see Table 2 below).

Table 2

2005-06 Proposition 98 Funding			
	2004-05	2005-06	Increase
(Dollars in thousands)			
Prop 98 Appropriation			
General Fund	\$34,009,289	\$36,590,833	\$2,581,544
Local property taxes	\$12,932,043	\$13,376,787	\$444,744
Total	\$46,941,332	\$49,967,620	\$3,026,288
Minimum guarantee	\$46,941,332	a/ \$49,477,240	
Overappropriation		\$490,380	
(Actual dollars)			
K-12 P98 per-pupil funding	\$7,159	\$7,402	\$243
K-12 total per-pupil funding	\$9,940	\$10,201	\$261
K-12 average daily attendance	5,990,309	6,031,404	41,095
 Proposition 98 "split" (CCC share)	 10.35%	 10.46%	
a/ Even with a \$3.8 billion suspension, this number is still higher than the previous year			

Growth and COLA. SB 77 provides full funding for anticipated K-12 growth (0.69%) and COLA (4.23%) in 2005-06. These unrestricted funds, which total over \$1.8 billion, may be used by schools for whatever purposes they deem necessary or desirable.

Enhanced Local Flexibility Denied. The Legislature denied the Governor's proposal to expand local authority to shift funding between categorical programs. The limits that currently apply to the programs listed in Control Section 12.40 and the block grants created by last year's AB 825 will remain unchanged.

Teachers' Pension Shift Denied. The Legislature denied the Governor's proposal to withdraw about \$470 million in state contributions toward teachers' retirements and instead require that school districts either fund that cost directly or negotiate with employee unions to assume it.

Split COLA Adopted for Special Education. This measure revises the special education funding formula so that, effective in 2005-06, the General Fund will cease to provide a COLA for the federal piece of the special education budget, and all federal fund augmentations will be passed through to local educational agencies. (In past years, the state has provided a COLA on the entire special education budget, including the federal piece, but has used federal funds

to offset some General Fund expenditures). No savings are achieved in 2005-06, but in future years, this action is expected to result in General Fund savings.

Mental Health Services for Special Education Students. SB 77 continues to include \$100 million in funding for mental health services and associated pre-referral services to special education children, the same amount provided in 2004-05.

Governor's Child Care Reforms Denied. Both houses of the Legislature rejected the Governor's proposed reforms to the state's subsidized child care programs and the associated savings of about \$168 million annually. However, the measure does include \$7.9 million proposed by the Governor to establish county-wide eligibility (waiting) lists for state-subsidized child care.

Governor's Initiatives Denied. This measure denies funding for the following Governor's initiatives:

- \$57.5 million for supplemental instruction targeted toward students at risk of failing the High School Exit Examination;
- \$52.4 million to expand class size reduction by one grade for decile 1-3 schools (those whose students' test results are the lowest);
- \$49.5 million for teacher recognition pay for teachers in decile 1-3 schools (bonuses, staff development, mentoring, etc.);
- \$30 million to expand the Beginning Teacher Support and Assessment (BTSA) to teachers beyond their first and second years;
- \$30 million to establish a pilot career technical (vocational ed) program to allow career exploration coursework in the 7th and 8th grades;
- \$18.2 million to increase the reimbursement rate for school breakfasts by 10 cents so as to ensure that schools offer more fresh fruit in these meals (\$17.2 million) and provide start-up grants for schools that do not currently offer a breakfast program (\$1 million);
- \$1.6 million to encourage high schools to establish smaller learning environments ("schools within a school"); and
- \$500,000 to reimburse the state's 50,000 high school coaches for training on the identification, risks, and effect of performance enhancing drugs.

One-time Funds. SB 77 includes over \$184 million in one-time funding for a variety of purposes, most notably including:

- \$100 million from the Proposition 98 Reversion Account for school facilities repairs (as required by the settlement of Williams v. State of California);
- \$33 million from the Proposition 98 Reversion Account to backfill lower-than-estimated local property tax collections; and
- \$20 million from the Proposition 98 Reversion Account for the Governor's career tech (voc ed) initiative.

Higher Education

Community College Funding Grows. The California Community Colleges' total revenue from all sources will grow by almost half a billion dollars, exceeding \$8 billion in 2005-06. SB 77 includes a 4.23% COLA, 3% for enrollment growth, \$20 million for equalization of revenue limit funding, \$10 million to increase the per-student rate for non-credit instruction, and \$10 million to expand nursing programs. The colleges' share of 2005-06 Proposition 98 funding will rise to 10.46%, up from 10.35% in 2004-05. Student fees will remain unchanged at \$26 per unit.

Compact with University of California and California State University Continues. This measure is generally consistent with the compact negotiated between the Governor and the segments in 2004-05 that focused on predictability, both in terms of student fees and funding increases for the institutions.

- Institutional funding increases (COLA) of 3% and enrollment growth funding of 2.5% are provided to both UC and CSU.
- The UC Regents and CSU Trustees both adopted student fee increases for 2005-06 several months ago, consistent with their compact with the Governor. This measure recognizes the adopted fee levels. System-wide undergraduate fees will be about \$6,150 at UC and \$3,100 at CSU.
- The Legislature rejected the Governor's proposal (part of the compact) for a \$1 million initiative to increase the number of math and science teachers trained by UC and CSU.
- The Legislature also deviated from the compact by providing outreach-related funding of \$17.3 million for UC and \$7 million for CSU, \$4 million to CSU to increase slots for entry-level masters program nurses (who will eventually become nursing faculty), and \$3.8 million for the UC Labor Institute, none of which were part of the Governor's compact with the segments.

Funding for Student Financial Aid Increases.

- SB 77 provides full funding for the Student Aid Commissions' estimate for 05-06 Cal Grant awards. Total Cal Grant funding will rise to almost \$775 million.
- This measure creates \$51 million in one-time General Fund savings by using excess reserves in the Student Loan Operating Fund (SLOF) to offset General Fund expenditures for Cal Grants by an identical amount.
- The maximum Cal Grant award for private universities continues unchanged at \$8,322 per year.

Health

For the 2005-06 fiscal year, SB 77 proposes total expenditures of \$71.9 billion from all fund sources, including federal funds, for all Health and Human Services Agency budgets. General Fund expenditures for Health and Human Services are projected to be \$27.2 billion, which represents *an increase of nearly \$1.7 billion General Fund* (or 6.7 percent) over the 2004 Budget Act. This proposed budget reflects Democrat priorities for spending in the Health program area. It provides no meaningful program reductions or spending cuts. Virtually all of the General Fund spending reductions included in SB 77 are the result of enhanced federal funds, accounting changes, fund shifts, and savings assumptions that will likely not materialize.

SB 77 provides funding for a new presumptive eligibility program that will provide free full scope Medi-Cal to ineligible children, and includes specific augmentations that benefit health programs and providers in Democrat Member districts. Examples include Medi-Cal managed care plan rate increases for Alameda Alliance for Health, San Diego Community Health Group, and Partnership Health Plan, and new exemptions to the existing Adult Day Health Care program growth moratorium for providers in San Francisco, Napa, Humboldt, and Imperial Counties.

As SB 77 continues to expand and augment state spending for health programs, it also reflects actions by the Majority to reject important Medi-Cal Restructure proposals that *would have reduced spending by \$145 million General Fund* over the next five years. A new study by the Public Policy Institute of California (PPIC) projects that, absent any policy changes, Medi-Cal benefit expenditures will grow from the current \$13 billion General Fund to \$29.1 billion by 2015.

Unlike education, spending for health and human services is largely discretionary. In fact, the Medi-Cal program alone is the second largest General Fund expenditure after K-12 education. These are huge programs that affect the lives of millions of Californians, and necessary long-term restructuring will take a great deal of sensitivity and effort. Most reforms will take multiple years to implement. The “solutions” contained in SB 77 fail to address the structural deficit, and runaway spending for health and human services is continued in this bill.

Department of Health Services

Medi-Cal

Medi-Cal serves one in six Californians. SB 77 includes \$34.6 billion (\$13 billion General Fund) to fund the Medi-Cal Program, which represents an increase of nearly \$1.3 billion General Fund (or 10.8 percent) above the revised 2004-05 level.

A new PPIC study projects that Medi-Cal benefit expenditures will grow by about 8.5 percent annually over the next ten years. In 2010, the forecasts indicate that the total cost of the Medi-Cal program will rise to \$53.9 billion, \$19.7 billion of which would be paid by the state. By 2015, these totals will rise further to \$79.6 billion, with \$29.1 billion out of the General Fund. Overall population growth accounts for only about 17 percent of the increase in benefit expenditures.

At 8.5 percent, the average growth in Medi-Cal expenditures will outpace the expected 6 percent annual growth in state revenues projected by the Legislative Analyst's Office. Accordingly, Medi-Cal can be expected to absorb a growing share of the overall General Fund budget, rising from 15 percent in 2003 to 19 percent in 2010 and 21 percent in 2015. *In 2010, forecasts indicate that Medi-Cal will require an additional \$3.7 billion over and above the costs expected if Medi-Cal expenditures remained a constant share of state revenues.*

Major Medi-Cal Budget Issues Include:

Medi-Cal Funded Induced Abortions. SB 77 includes about \$35 million General Fund to pay for abortions.

Hospital Financing Waiver. SB 77 contains no budgetary changes associated with the Administration's proposed Hospital Financing Waiver even though California's existing Waiver expires June 30, 2005.

Federal Funds for Prenatal Care. SB 77 assumes a \$191.7 million General Fund savings from authorizing the Department of Health Services (DHS) and Managed Risk Medical Insurance Board (MRMIB) to submit a State Plan Amendment to the federal CMS in order to draw down a 65 percent federal match for the state's Prenatal Care Program for Pregnant Undocumented Women in Medi-Cal and the Access to Infants and Mothers (AIM) Program.

Rejects Medi-Cal Redesign. SB 77 *does not include* most of the Governor's Medi-Cal Redesign proposal. Specifically, Governor's proposal to require certain Medi-Cal enrollees to pay premiums was rejected, the Administration's changes to allow a private vendor to process Medi-Cal eligibility (i.e., Single Point of Entry) was rejected, and most importantly the mandatory enrollment of aged, blind and disabled that would have provided 90 percent of the savings associated with the Medi-Cal managed Care expansion was rejected.

Medi-Cal Managed Care Expansion. While rejecting the mandatory enrollment of aged, blind and disabled beneficiaries, SB 77 does provide for expansion into 13 new counties using the existing program enrollment method of the mandatory enrollment of children and families, and the voluntary enrollment of the aged, blind and disabled; and it allows for existing County Organized Health Care Systems (COHS) to expand into additional counties. COHS require the mandatory enrollment of aged, blind, and disabled individuals.

Modified Denti-Cal Adult Dental Cap. SB 77 includes an augmentation of \$19 million General Fund because the Democrats adopted an expenditure cap for Adult Dental services provided to Medi-Cal enrollees that differs significantly from the \$1,000 annual cap proposed by the Governor and effectively eliminates any savings in the 2005-06 budget. Additionally, the modifications reduce the potential annual savings in future years by over \$16 million General Fund (from about \$19 million to about \$3 million). This modified cap has a set limit of \$1,800 over a calendar year, and commences as of January 1, 2006. The cap excludes a variety of services (e.g., emergency services, dentures, dental services provided in a long-term care nursing home setting, and complex oral and maxillofacial surgeries).

Long-Term Care Rate Increases. SB 77 provides \$29.9 million General Fund to provide rate increases to various long-term care facilities that do not receive increases via the nursing home quality improvement fee (AB 1629, Statutes of 2004).

Nursing Home Quality Improvement Fee. SB 77 includes \$421 million General Fund to provide a cost-of-living-adjustment (COLA) and rate increase to certain nursing homes

pursuant to AB 1629, Statutes of 2004. AB 1629 provides for the establishment of a facility specific rate methodology by August 1, 2005, and institutes a quality improvement fee to be effective August 1, 2004. As a result of implementing this fee the cost of the COLA and rate increase is offset by about \$361 million of new revenue to the General Fund.

New Exemptions for Adult Day Health Care (ADHC). SB 77 reflects an augmentation of \$11.2 million General Fund for ADHC providers because the Majority (1) changed the existing moratorium to address specific needs of ADHC providers in their districts (San Francisco, Napa, Humboldt, and Imperial Counties), and (2) rejected the Administration's proposal to freeze ADHC provider rates.

New Presumptive Eligibility Program. SB 77 includes an additional \$1.2 million General Fund augmentation to fund partial year implementation of yet another Democrat program expansion that provides full scope Medi-Cal benefits to children that are not eligible for that level of benefits. The program provides "accelerated enrollment" for certain children who have a high share-of-cost in Medi-Cal. These children would receive unlimited free Medi-Cal coverage pending enrollment into the Healthy Families Program.

Speculative Drug Rebate Savings. SB 77 includes a reduction of \$3.5 million General Fund that was adopted by the Majority to reflect a January 1, 2006 implementation date for obtaining federal government approval of the Department of Health Services' request regarding the states Medi-Cal Drug Rebate Program (i.e., "protecting rebates"). It is unlikely that these savings will materialize

Additional Dent-Cal Provider Enrollment Staff. SB 77 provides \$121,000 General Fund for three additional positions at Delta Dental to process the enrollment of dentists into the Medi-Cal Program (Denti-Cal).

Cal-Optima Medi-Cal Managed Care Rate Increase. SB 77 includes \$9.2 million General Fund to provide a 3 percent rate increase to CalOPTIMA, the County Organized Health Care Systems of Orange County. This rate increase was proposed by the Administration.

Additional Med-Cal Managed Care Rate Increases. In addition to the rate increase included by the Administration, the Majority augmented SB 77 by \$5.9 million General Fund to provide Medi-Cal Managed Care plan rate increases to health plans in Democrat Member districts (i.e., Alameda Alliance for Health, San Diego Community Health Group, and Partnership Health Plan). Unlike the Cal-Optima increase that was reviewed and analytically justified by DHS, these rate increases were adopted with little discussion or justification.

Medicare Part D. SB 77 still includes the Administration's Medicare Part D adjustments:

- **"Clawback"** - A one-time reduction of \$135.6 million as a result of a federal decision to delay states payment of the "clawback" (February 2006 instead of January 2006).
- **Medicare Part D Excluded Drug Coverage** - An increase of \$46.8 million to provide coverage of "excluded drugs", which are drugs that are currently covered by Medi-Cal that will not be covered by Medicare Part D.
- **Medicare Part D Managed Care Savings** – A decrease of \$57.6 million to reflect savings associated with lower managed care capitation payments to Medi-Cal Managed Care plans since dual eligibles (i.e., persons eligible for both Medicare and Medi-Cal) will now receive drugs through Medicare.

Medicare Part D HMO Premiums - SB 77 includes an augmentation of \$2.8 million General Fund to have Medi-Cal pay the premium for dual eligibles enrolled in Medicare Health

Maintenance Organizations for three additional months (through March, 2006). These funds are to provide for a transition period for these dual eligibles as they are affected by the federal Medicare Modernization Act despite the fact that the *federal government has already assumed responsibility* for this population during that time period.

Public Health Programs

West Nile Virus. SB 77 provides \$12 million General Fund to assist in mitigating the spread of West Nile Virus. Of this amount, \$10 million will be allocated to local vector control districts for mosquito mitigation in high priority areas of the state and “hot spots” based on epidemiological studies.

Governor’s Obesity Initiative Rejected. SB 77 includes only \$180,000 General Fund for one Medical officer position to coordinate existing programs and functions. The Governor had requested \$6 million for a variety of state operations and local assistance efforts to fill existing gaps, and to enhance existing efforts.

California Rx Program Rejected. SB 77 reflects the elimination of \$11.7 million General Fund associated with the implementation of the Governor’s California Rx Program.

Continued Suspension of General Fund for County Health Programs. SB 77 assumes that the state share share-of-cost for the County Medical Services Program (CMSP) is suspended for another year. The state General Fund contribution has been suspended every fiscal year since 1999-2000. Current law places the state at risk for any cost that exceeds the cumulative annual growth in dedicated sales tax and vehicle license fee revenue, up to a maximum of \$20,237,460 per fiscal year.

Genetic Disease Testing Program. SB 77 includes \$15 million Genetic Disease Testing Fund to expand the Newborn Screening Program. This was approved despite concerns raised by Republican Members about the ability of DHS to implement this program expansion in a cost effective and timely manner.

Managed Risk Medical Insurance Board

Healthy Families Program

Caseload. SB 77 fully funds expenditures for the Healthy Families Program (HFP), which are projected to be \$959.3 million (\$347.4 million General Fund). The Administration estimates that enrollment will grow from 740,835 by year-end 2004-05 to 867,418 in 2005-06 for a total increase of 126,583 children.

Rate Increase. SB 77 includes \$5.1 million to provide a 2.9 percent rate increase to HFP health plans. The HFP had a rate freeze in place for the past two years pursuant to the 2003 Omnibus Health Budget Trailer Bill (AB 1762).

HFP/Medi-Cal Application Assistance Funding. SB 77 provides \$4.9 million General Fund to re-establish the Certified Application Assistance (CAA) program that provides payment of \$50 for a new application and \$25 for an annual eligibility review to individuals and organizations that help potential eligibles fill out the application forms. Both advocates and the Managed Risk Medical Insurance Board (the State agency that administers Healthy Families) have cited the lack of outreach and application assistance funding as the primary

reason enrollment in HFP as leveled off. However, there are no studies that support the efficacy of past outreach efforts.

Access for Infants and Mothers (AIM) Fund Shift. SB 77 reflects a fund shift in the AIM program from General Fund support to the use of Proposition 99 funds as proposed by the Administration. This fund shift saves \$27.4 million (General Fund). This action assumes the receipt of federal S-CHIP funds as a match to the Proposition 99 funds. Senate Bill 88, which recently passed on a four-fifths vote of the Legislature, amended Proposition 99 to allow for Proposition 99 funds to be used to match federal funds.

Managed Risk Medical Insurance Program (MRMIP). SB 77 includes \$40 million (Proposition 99 funds) to fund the MRMIP at its historic levels.

Department of Developmental Services

Continues Existing Cost Containment Measures. SB 77 reflects savings of \$84.3 million General Fund related to the continuation of existing cost containment measures on the purchase of services expenditures which have been in effect since the Budget Act of 2003. This includes all of the rate freezes, the extended assessment timeframe (60 days to 120 days), the revision to eligibility, the Family Cost Participation Program, and the unallocated reductions.

Rejects Additional Cost Containment Measures. SB 77 includes a \$10.3 million General Fund augmentation as a result of the rejection of a variety of “common sense” cost containment strategies that would have resulted in nearly \$63 million of General Fund savings over a three year period on the purchase of services expenditures.

Increased Funding for Regional Center Staffing. SB 77 provides \$4 million General Fund for the Regional Center’s operations budget to hire 103 Service Coordinators, 9 Physicians, and 13 Psychologists to help Regional Centers maintain compliance with the federal CMS regarding the Home and Community-Based Waiver. This amount is in lieu of the \$8.8 million General Fund as requested by the Administration.

Continues Costly Agnews Community Placement Plan. SB 77 includes \$12.6 million General Fund to continue implementation of an extremely costly community placement plan that, as proposed by the Administration, *could cost in excess of \$300,000 per client*. The Administration has not been able to justify the extraordinary costs associated with these new community residential facilities.

Supported Employment Program. SB 77 includes an augmentation of \$1.1 million General Fund in the Department of Developmental Services, and \$459,000 General Fund in the Department of Rehabilitation to return the Supported Employment Program group size back to a ratio of three individuals per counselor (1:3), versus its present size of four individuals per counselor (1:4).

Department of Mental Health

Rejects Repeal of AB 3632 Mandate. SB 77 includes \$120 million General Fund to provide reimbursement of county mandate claims for costs incurred by County Mental Health Departments in providing services related to the AB 3632 mandate. This level of funding provides \$60 million for 2004-05 claims and \$60 million for 2005-06 claims. The LAO has

indicated that the funding provided will likely be inadequate. Federal law (the Individuals with Disabilities Education Act) requires states to guarantee disabled students the right to receive a free and appropriate public education that emphasizes special education and related services, which may include mental health services. AB 3632 shifted this responsibility from schools to counties thus creating a local mandate. Democrats *rejected the Administration's proposal to repeal sections of Government Code that create the mandate on the counties.*

Restructure Sexually Violent Predator (SVP) Program. SB 77 reflects a savings of \$6 million General Fund by restructuring the SVP Treatment Program to only provide treatment to those who want to participate.

Chronic Homelessness Initiative. SB 77 includes a proposal that utilizes \$2.4 million of Proposition 63 (Mental Health Services Act) funds for collaboration between the Health and Human Services Agency, and the Business, Transportation and Housing Agency. These funds are available for two years and will be used ***primarily for rent subsidies***. In addition, \$40 million is redirected from existing housing bonds and \$10 million from the California Housing Finance Agency to create 400-500 units of permanent housing with services for the mentally ill.

Human Services

CalWORKs

Restorations. SB 77 rejects the Governor's proposals to reduce CalWORKs grants by 6.5 percent and reform state-supported child care and provide equitable reimbursement rates. These proposals would have resulted in General Fund savings of \$289.8 million.

Suspend CalWORKs Cost-of-Living Adjustment (COLA). SB 77 suspends the statutory requirement to provide an automatic annual grant COLA for 2005-06 and 2006-07, which is required regardless of whether sufficient resources are available to support such an increase. General Fund savings are projected to be \$135 million in 2005-06 and \$274.3 million in 2006-07.

Pay for Performance. The Administration proposed to set aside \$30 million in TANF Block Grant funds in 2005-06 for allocation to counties in 2006-07 who meet specific CalWORKs program outcomes. This proposal is intended to better focus counties on the goals of increasing both the number of hours worked by CalWORKs recipients and their earnings.

Eliminate State Fingerprint Imaging Requirement for Food Stamp Participants. The trailer bill related to enacting SB 77 eliminates the fingerprinting requirement for food-stamp only applicants and discontinues the photographing requirement for all cash aid applicants (CalWORKs, Food Stamps, and Governmental Assistance). Eliminating the fingerprinting requirement for food-stamp only applicants could result in unknown, but potentially significant General Fund expenditures in the Food Stamps and California Food Assistance Program as a result of an increase in beneficiaries that may or may not be eligible to receive those benefits.

Work Reforms Significantly Revised. The trailer bill related to enacting SB 77 eviscerates the goal of the CalWORKs reform, which is to move more people toward self-sufficiency and

reduce the reliance on grants. The language would undo last year's Leadership agreement for CalWORKs reform by significantly modifying the welfare-to-work activity requirements for CalWORKs recipients. SB 77 includes savings of \$24.2 million associated with the CalWORKs reform, with the bulk of the savings attributable to recipients increasing the number of hours they are working, resulting in decreased grant costs. These statute changes would likely substantially diminish this amount of savings.

In-Home Supportive Services (IHSS)

Restorations. SB 77 rejects the Governor's proposal to reduce state participation for wages and benefits for IHSS workers from \$10.10 per hour to the state minimum wage of \$6.75. Additionally, current law requires state participation in IHSS wages and benefits to increase from the current level of \$10.10 per hour to \$11.10 per hour commencing with the next state fiscal year for which the May Revision forecast of General Fund revenue exceeds by at least 5 percent the most current estimate of revenues. The Administration notified the Legislature on May 13, 2005 that this condition has been met and the level of state participation for IHSS workers *will* increase to \$11.10 per hour July 1, 2005, increasing General Fund expenditures by \$12.1 million in 2005-06.

IHSS Share-of-Cost. SB 77 includes \$10.6 million General Fund to allow IHSS recipients that currently do not have a share of cost within the IHSS program to receive a supplemental payment to be used towards any required share of cost they may be required to pay under Medi-Cal standards, essentially holding them harmless for any additional monies they may be required to expend for IHSS eligibility.

Fraud, Waste and Abuse. SB 77 reflects \$55.4 million in General Fund savings for IHSS quality assurance activities. The 2004 Budget Act established a range of IHSS quality assurance activities, which are currently being implemented by the department through a number of workgroups.

Other Social Service Programs

Supplemental Security Income/State Supplementary Payment (SSI/SSP). Under current law, an annual state SSI/SSP COLA is scheduled to take effect on January 1, 2006 and January 1, 2007, however, SB 77 and related budget trailer bill suspend the state SSI/SSP COLA for two years, achieving General Fund savings of \$131.9 million in 2005-06 and \$391.3 million in 2006-07. The state continues to pass-through \$97.7 million for the federal SSI/SSP COLA in 2005-06.

Community Care Licensing. Budget trailer bill continues to suspend, for one year, a statutory exemption that allowed family day care providers, persons operating or managing a certified family home, and volunteers at child care facilities to not pay fees for the statutorily required fingerprinting review process. General Fund fee revenue of \$1.5 million is included in SB 77.

Department of Child Support Services

- **California Child Support Automation System.** SB 77 includes funding to continue development of the California Child Support Automation System (CCSAS), including an

augmentation of \$90 million (\$25 million General Fund) for the CCSAS Child Support Enforcement and the State Disbursement Unit components. Related trailer bill amendments would authorize the Department of Child Support Services to borrow up to \$150 million from the General Fund to ensure timely disbursement of child support payments.

- **Federal Relief.** The Administration has announced that the federal government will allow the state to defer its 2005-06 penalty payment of \$223 million until September 30, 2006. Included in SB 77 is \$218 million General Fund for the previously-deferred 2004-05 penalty payment.

Department of Aging

- **Health Insurance Counseling and Advocacy Project.** The budget trailer bill increases the Health Insurance Counseling and Advocacy Program (HICAP) assessment fee within the Department of Aging. HICAP is funded by a \$1.05 per person assessment on Medicare health care services plans, plus funds from the Insurance Fund, matched on a 2-to-1 basis with the health plan assessments. The trailer bill increases the assessment up to \$1.65 per person.

Department of Alcohol and Drug Programs

- **Drug Medi-Cal Provider Rates.** SB 77 includes \$1.1 million General Fund to increase provider rates within the Drug Medi-Cal program.

Transportation

Proposition 42 Fully Funded. Enacted by the voters in the March 2002 election, Proposition 42 amended the State Constitution to permanently dedicate sales taxes on gasoline for transportation projects. Specifically, the Proposition requires the transfer of gasoline sales tax revenues from the General Fund to a newly created Transportation Investment Fund (TIF). The Proposition also allows the Administration and the Legislature (if two-thirds of the membership approve) to suspend the transfer of sales tax revenues in a fiscal year in which the transfer will result in a significant negative impact on government functions funded by the General Fund.

Proposition 42 transfers have been suspended for the last two years. In fiscal year 2003-04, \$868 million of the \$1.157 billion in gasoline sales tax revenues was suspended. For 2004-05, the entire \$1.243 billion is suspended. However, SB 77 proposes to fully fund Proposition 42 at \$1.313 billion in 2005-06, and allocate the funds pursuant to existing law as follows:

- \$678 million to the Traffic Congestion Relief Fund
- \$127 million to the Public Transportation Account
- \$254 million to the State Transportation Investment Program
- \$254 million to cities and counties for local streets and roads

The table below displays the funding and suspension history of Proposition 42 since implementation in 2003-04.

Table 3

Proposition 42 Funds		
(Dollars in millions)		
<u>Fiscal year</u>	<u>Amount to be Transferred</u>	<u>Amount Suspended</u>
2003-04	\$1,157	\$868
2004-05	1,243	1,243
2005-06	1,313	0
Total	\$3,713	\$2,111
57% of Prop. 42 Funds Have Been Suspended		

In total, \$2.1 billion or approximately 57 percent of voter-approved Proposition 42 transportation funds have been retained in the General Fund and used for non-transportation purposes.

Repayment of Transportation Loans from Tribal Gaming Bonds Delayed. Between fiscal years 2001-02 and 2004-05, the General Fund borrowed a total of \$3.667 billion from transportation, including \$1.556 billion in loans from various transportation accounts, and \$2.111 billion from the 2003-04 and 2004-05 Proposition 42 suspensions.

For 2004-05, a total of \$1.397 billion was proposed to be repaid from a variety of funding sources, authorized by both the 2004 Budget Act and AB 687 related to tribal gaming compacts. Specifically, the Budget Act authorizes repayment of \$183 million from a combination of General Fund and Public Transportation Account “spill-over” revenues. Also, AB 687 (Chapter 91, Statutes of 2004) proposes to repay \$1.214 billion from bond proceeds secured by tribal gaming revenues.

At the time of this analysis, the timing for sale of the bonds is uncertain due to litigation that has been filed against the State. The 2005-06 budget includes trailer legislation that would make repayment of these transportation loans contingent upon receipt of tribal gaming bonds. SB 77 proposes to decrease the repayment from these bonds by \$222 million due to the absence of new compacts. This amount will either be repaid from additional compact negotiations or as part of other transportation loan repayments.

Public Transportation Account (PTA) “Spill-over” Funds. Current law contains an arcane formula that requires the General Fund to transfer sales tax revenues to the PTA under specified conditions. This transfer is often triggered during periods of high gasoline prices and is used to fund rail and mass transit projects. SB 77 retains \$380 million in “spill-over” funds in the General Fund. This proposal would, in effect, divert monies from public transit projects to the General Fund.

Culvert Inspection and Fish Passage Assessments. As part of the May Revision, Caltrans requested an augmentation of \$3.5 million to conduct assessments of water passageways and

drainage, otherwise known as culverts, that cross beneath state highways. In the past, failed culverts have resulted in mudslides and collapse of large portions of roadway. SB 77 approves funding for culvert inspection, but also includes language directing Caltrans to use funds, as they become available, to assess coastal streams for barriers to fish passage. The language does not specify which funds may be used, and could result in pressure to utilize transportation funds if other funds do not materialize. Caltrans estimates that completion of fish passage assessments in highest-priority areas would cost between \$6 million and \$9 million.

Environmental Enhancement and Mitigation (EEM) Program Augmentation. This program was initiated under Chapter 106, Statutes of 1989, which required a transfer of \$10 million from the State Highway Account to the EEM Fund for a period of ten years. After expiration of the statute in 1999, the Legislature continued to make the transfer in the budget until 2002-03. No transfers occurred in 2003-04 and 2004-05 due to declining revenues to the State Highway Account. SB 77 includes a legislative augmentation of \$10 million from the State Highway Account for projects such as biking and hiking trails, landscaping, and park and wildlife land acquisition. Given our transportation project backlog, we ought not be spending transportation funds on projects that do not maintain our highways or increase lane capacity.

No Aeronautics Account Transfer to the General Fund. Revenues for the Account are derived from an excise tax on aviation and jet fuel. These funds are typically used by publicly-owned airports to maintain and improve runways. In 2002 and 2003, approximately \$6 million and \$4.8 million, respectively, were transferred from the Aeronautics Account to the General Fund. No Aeronautics Account funds are proposed to be transferred to the General Fund in 2005-06.

Elimination of the Transportation Development Advisory Committee. SB 77 and related trailer legislation eliminates the Committee effective January 1, 2006, for special fund savings of \$1,000. The Committee was created to advise Caltrans on the preparation of legislative reports, and the designation of scenic highways. The Administration indicates the advisory role can be provided more effectively on an ad hoc basis.

Redirection of Funding from Administration to Construction. SB 77 reduces Caltrans' administrative budget by \$50 million in the current year and carries over these savings into the budget year, to be used for capital outlay programs. The savings in the current year is primarily attributable to excess salary savings from vacant positions.

High-Speed Rail. Chapter 71, Statutes of 2004 (SB 1169) delayed placing a \$9.95 billion general obligation bond measure (for a high-speed rail system) before the voters, until November 2006. SB 77 includes expenditures of \$3.9 million for High-Speed Rail, of which \$2.7 million is a one-time increase for legal defense of the Environmental Impact Report, additional environmental work, and completion of a business plan. SB 77 also includes a legislative augmentation of \$650,000, half of which is from reimbursements, to fund an alignment/station study in the Southern San Joaquin Valley. Budget bill language also prohibits the expenditure of funds for completion of the business plan if the bond is delayed beyond the November 2006 election.

It's questionable whether the State ought to continue spending money on preliminary environmental and design work for a rail system that would cost as much as \$14.7 billion,

assuming a 20-year term at a financing rate of 5 percent. Furthermore, if ridership revenues are insufficient to cover the operating costs, this project could end up costing taxpayers millions of dollars in annual subsidies.

Resources, Environment and Energy

Fee Increases. SB 77 and related trailer legislation could increase fees in the resources and environmental protection area by as much as \$26 million. These fees and other trailer legislation are still being negotiated and subject to change. Although some of these fee increases are proposed by the Administration, the vast majority were proposed by the Legislature. Republicans generally oppose fee increases because such policies tend to impede economic development. These and other select topics are discussed below.

- **Park Fees.** The 2004 Budget Act authorized increases for day use and camping fees in State parks. The fee revenues were to be used to repair and improve State Park water, wastewater and sewer systems to help comply with State and federal legal mandates for drinking water and waste discharge. Fees were restructured on a sliding scale based on peak demand and park popularity, and could be administratively adjusted up to a specified price range. This Administration-proposed fee increase remains within previously authorized ranges, and is anticipated to generate an additional \$6 million in revenue for 2005-06.
- **Streambed Alteration Fees.** The Department of Fish and Game is authorized to charge a permit fee for projects that impact streambeds. The department may also adjust the fee level, without new legislation, to support activities related to permit review and approval. For 2005-06, the Administration proposes to increase permit fee revenues by \$1.7 million.
- **Household Goods Carrier Fees.** The Public Utilities Commission regulates approximately 1,050 household goods carriers (movers), and mandates that these entities meet various requirements, such as maintaining evidence of insurance, undergoing criminal background checks, etc. Due to the volume of consumer complaints in the past few years, the Administration proposes to increase fees of approximately \$521,000 on moving companies in order to fund additional enforcement staff. According to the Administration, these fees are supported by the industry.
- **Waste Discharge Permit Fees.** The State Water Resources Control Board currently charges a permit fee for discharges into state land and waterways. This fee is used to support various water monitoring and enforcement activities. SB 77 redirects \$4.5 million of federal funds from National Pollutant Discharge Elimination System (NPDES) to the surface water monitoring program and directs the Board to backfill the NPDES by increasing waste discharge permit fees. This increase does not require legislation because the Board is authorized to adjust permit fees within a certain price range.
- **Coastal Commission Permit Fees.** The Coastal Commission currently charges a permit fee for construction or development along California's coastline. These fees are deposited into the General Fund, but are insufficient to support the permit review and approval functions. SB 77 increases permit fees by approximately \$1.7 million, such

that the program is supported 50-percent from the General Fund, and 50-percent from fees. This increase does not require legislation because the Commission is authorized to adjust permit fees within a certain price range.

- **Various Fish and Game Fees.** Recently, the Legislative Analyst's Office identified accounting irregularities within the Department of Fish and Game. Specifically, the department was redirecting fee revenues that are statutorily dedicated to restoration of a particular species, for programs that restore or protect other species. The Analyst recommended that the Department be authorized to increase various fishing and gaming licenses by \$633,000 annually in order to realign revenues with expenditures. SB 77 includes budget bill language to this effect.
- **Commercial Fish Landing Tax.** SB 77 and related trailer legislation would allow the Department of Fish and Game to adjust commercial fishing taxes based on the market value of the fish. For example, the assessment would be higher on fish such as salmon, but less on trout. This ad valorem tax could generate as much as \$6 million annually, and would be used to support enforcement of commercial fishing programs.
- **CEQA 3158 Permit Fees.** The Department of Fish and Game charges a development permit fee for projects that are exempted from CEQA (California Environmental Quality Act) requirements. These fees are collected by the counties on behalf of the State. SB 77 and related trailer legislation would revise the fee structure, so that the fee would be based on the size and complexity of the project as well as its impact on the environment. It is estimated that this revision could increase fee revenues by as much as \$5 million annually.

CALFED Financing Proposal. CALFED is a consortium of State and federal agencies created to address various inter-related water problems in the Bay-Delta region over the next 30 years. CALFED goals include improving water quality and wildlife habitat, increasing water supply, and reducing flood risks from levees. However, since CALFED began implementing programs and project construction in 2000, federal funding commitments have fallen short. During last year's budget subcommittee hearings, the Senate adopted a proposal that required the Bay-Delta Authority to adopt regulations establishing a CALFED user fee effective in the 2005-06 fiscal year. Upon strong urging from Republicans, the Governor agreed to withdraw all language related to a CALFED fee.

In January 2005, the Governor's budget included a framework for financing CALFED over the next 10 years that would reduce the State's contribution by assuming increased federal funds and increasing fees on local water agencies and other water users. However, due to stakeholder opposition, the May Revision CALFED finance plan was modified from a 10 year plan, to a 2-year interim plan to allow the Administration time to work with water user groups on funding options. The proposal also includes "reimbursements" of up to \$30 million annually for the Ecosystem Restoration Program, and \$300,000 for an independent review and evaluation of CALFED. Also, there is no mention of a statewide water tax.

SB 77 approves \$146 million of the Governor's proposed \$272 million plan for CALFED and includes funding for select projects that meet the approval of the Senate and Assembly budget subcommittees. Overall, the funding tends to favor habitat restoration over water quality and

supply. SB 77 also rejects the \$30 million “reimbursement” from water user groups on the basis that it is unclear how the funds would be used.

At time of this analysis, the Administration is working to partially restore some of CALFED cuts. Water user groups have also formed a coalition to support a handful of critical CALFED projects totaling \$55.8 million. These projects are included in the Administration’s restoration proposal. Any additional funds that are approved for CALFED would be appropriated in a separate supplemental budget bill.

Although the need for a CALFED consortium and its program effectiveness remains questionable, the Administration has taken a more modest and methodical approach to funding CALFED since its January proposal. CALFED would be more supportable for Republicans if it were to include the following:

- Restoration of funding for the critical CALFED projects identified by the water user coalition – also supported by the Administration.
- Inclusion of budget or trailer language specifying how the \$30 million reimbursements would be used. This is to ensure that funds would be directed towards restoration projects that would improve water supply and reliability.
- Additional assurances to protect water users from future water loss or financial outlays.
- A commitment from the Administration to scale-back the CALFED program to mitigate the need for future taxes and fees.

Levee Maintenance. Last year, a levee break in the Jones Tract portion of the San Joaquin delta caused millions of dollars in damages. The State responded with financial assistance for levee repair and debris removal. However, as the result of a recent court ruling on the *Paterno v. State of California* case, the State’s liability could increase substantially for future levee failures. SB 77 includes \$9.7 million General Fund and 27 positions. This funding is the first installment of a 3-year plan to improve and maintain the Sacramento and San Joaquin Valley flood system, and develop and implement a more comprehensive flood protection plan. The Administration also indicates that they are evaluating alternatives for funding flood protection activities, including creation of a special district with the authority to impose fees, and exploring possibilities for mandatory flood insurance for residents living near flood control levees.

Paterno Settlement. A California Court of Appeals recently found the State financially responsible for a 1986 levee break in Yuba County that flooded 7,000 acres of land. Initially, the Governor’s budget proposed to fund the settlement amount of \$464 million with a settlement bond. However, due to legal barriers, the May Revision proposes to fund this amount through an agreement with Merrill-Lynch, wherein the plaintiffs would be paid \$464 million in a lump sum and the State would pay Merrill-Lynch the principal plus variable interest based on the London Interbank Offering Rate (LIBOR). The current rate is approximately 4.29 percent. SB 77 approves funding for the first-year installment.

All-American and Coachella Canals. Consistent with the Quantification Settlement Agreement (QSA), SB 77 proposes \$59.1 million General Fund for the lining of the All-American and Coachella canals. The QSA is an agreement between various federal, state, and local agencies to reduce California’s use of the Colorado River. Lining of the canals is

anticipated to reduce the amount of water that is absorbed into the ground, thereby increasing the supply of water by about 100,000 acre feet.

Department of Forestry and Fire Protection (CDF). The CDF's primary duties include oversight of the State's forests and fire suppression on the State's forestlands and State responsibility areas, also known as SRA's. For the 2005-06 fiscal year, SB 77 proposes funding for fire suppression activities as follows:

- \$25 million for emergency firefighting costs;
- \$10.8 million for the replacement of 40 fire engines and other fire-fighting equipment; and
- \$9 million for firefighters to provide year-round fire suppression coverage in the counties of Riverside, San Bernardino, and San Diego.

SB 77 rejects the Governor's proposal for one-time funding of \$5 million (General Fund) for replacement of 19 fire engines, but restores an unallocated General Fund reduction of \$6.7 million for staffing and operating expenses.

River Parkways. SB 77 proposes \$7,850,000 from Proposition 40 bond funds, and \$30,500,000 from Proposition 50 bond funds to provide grants to public and nonprofit entities for river parkway projects. Specifically, these funds would be used for the acquisition and development of river parkways.

Williamson Act. SB 77 maintains subvention funding for the Williamson Act at approximately \$40 million, and includes a legislative augmentation of \$345,000 for 3 positions to increase enforcement of Williamson Act contracts.

Sierra Nevada Conservancy. SB 77 proposes \$3.6 million and 13.5 positions to support the newly created Sierra Nevada Conservancy, and \$11.7 million in Proposition 50 bond for grants to public and nonprofit entities for the acquisition of land and water rights that would protect water quality in the region.

Elimination of Interagency Aquatic Invasive Species Council. SB 77 and related trailer legislation eliminates the Council because it was never formed and the Department of Fish and Game already performs the Council's mandated activities.

Public Safety and Judiciary

Judicial Branch (State Trial Court Funding). Trial Court Funding is displayed as a new program within the Judicial Branch Budget. SB 77 includes an increase of \$130.7 million General Fund to reflect the first budget adjustment pursuant to a statutory growth factor formula (established by 2004 Budget Trailer Legislation) based upon the State Appropriations Limit. The amount reflects a \$4.1 million reduction taken by the Budget Conference Committee which appears reasonable.

Related budget bill language requires that \$5 million from the Trial Court Improvement Fund be used for support services for self-represented litigants. We are unaware of the need or justification to provide funding for this purpose.

Additionally, SB 77 includes an increase of \$92.6 million General Fund for various increased costs relate to staff benefits, court security and county services, proposed in the Governor's Budget, and the partial restoration of a one-time reduction \$52.8 million General Fund. The Budget Conference Committee reduced the restoration by \$7.7 million, which will likely be distributed among the Administrative Office of the Courts, Courts of Appeal, Supreme Courts and the Habeas Corpus Resource Center. It is unclear whether this will create a hardship for the courts.

Finally, SB 77 reappropriates \$2.3 million for the property acquisition phase of the Fourth Appellate District Courthouse project.

Civil Assessment Increase Adopted. A related budget trailer bill adopted by the Budget Conference Committee would increase the civil assessment maximum from \$250 to \$300, which is estimated to provide an additional \$7.5 million in revenues for the courts. Courts impose civil assessments against defendants that either fail to appear and/or fail to pay all or a portion of a fine ordered by the court.

Court Security Fees Sunset Extension Adopted. A related budget trailer bill adopted by the Budget Conference Committee proposes to continue the court security surcharge of \$20 per filing until July 1, 2006, or until enactment of a uniform civil filing fee statute. The fee was to sunset on July 1, 2005. The fee generates approximately \$16.8 million in revenue for court security.

California Law Revision Commission. SB 77 provides \$685,000 General Fund for the continued operation of the commission which includes a legislative augmentation of \$150,000 in order to reduce current workload backlog from 9.8 years to 2.5 years.

Department of Justice. SB 77 provides \$15.9 million from the DNA Identification Fund and \$2.0 million General Fund to address workload resulting from the expanded collections of DNA, palm prints and thumbprints pursuant to Proposition 69.

SB 77 also includes several General Fund augmentations which include:

- \$4.2 million and 29.5 positions to handle increased medical malpractice/deliberate indifference cases received from the California Department of Corrections.

- \$4 million and 8.0 positions in order to begin replacement of five automated database systems. The five databases provide statewide support for Wanted Persons, Stolen Vehicles, Supervised Release File, Firearms Eligibility Applicants, and Domestic Violence Restraining Orders.
- \$3.3 million and 23 positions to handle increased state and federal *habeas corpus* litigation.
- \$2.5 million for a one-time purchase of laboratory equipment for the Bureau of Forensic Services to improve current capabilities and replace outdated, un-repairable equipment used by the lab system.
- \$1.8 million for the Renovation of the Violent Crime Information Network (VCIN).
- \$1.7 million and 12.4 positions for Bureau of Forensic Services workload.
- \$1.2 million and 8.2 positions to defend individual and class-action suits (1) challenging the conditions of confinement for sexually violent predators (SVPs), and (2) involving the release of SVPs at the conclusion of their hospital treatment.
- \$721,000 and 4.9 positions related to representation of the Franchise Tax Board to address Abusive Tax Shelter litigation.

Department of Corrections and Rehabilitation. SB 77 includes \$7.3 billion General Fund for support, local assistance, capital outlay for the Department of Corrections and Rehabilitation (DCR).

The Governor's Reorganization Plan #1 and Chapter 10, Statutes of 2005 (SB 737-Romero, et. al.) reorganize the Youth and Adult Correctional Agency (YACA), Department of Corrections, Department of the Youth Authority, Board of Corrections, Commission on Correctional Peace Officers' Standards and Training, Board of Prison Terms and the Youth Authority Board into the DCR. For ease of reference the following applicable entities are referenced by their soon to be former names and the amounts are reflected in the aforementioned DCR totals.

Youth and Adult Correctional Agency. The Administration requested \$4.1 million General Fund to begin comprehensive statewide juvenile justice reform. The Budget Conference Committee included \$400,000 General Fund and authorized a redirection of \$850,000 for this purpose, which we believe is reasonable.

Department of Corrections (CDC). SB 77 restores \$51.2 million of the \$95.3 million reduction of funding for inmate and parole programs proposed in the Governor's Budget. The balance of the reduction (\$44.1 million) will be taken from the various inmate and parole programs which have been scaled back as a result of a change in policy or implementation problems.

SB 77 includes \$365.6 million General Fund to address population growth estimates as well as a reversal of savings assumed for parole accountability programs (\$58.1 million).

SB 77 provides \$7.5 million General Fund (one half of the Administration's request) to be set-aside and available to CDC to enhance inmate and parole programs that have been determined to be effective and evidence-based. The full year cost would be \$15 million. This funding will only be available pending a report to the Legislature.

SB 77 reflects the rejection of the Administration's proposal to establish three new mental health facilities (Chino, San Luis Obispo, and Sacramento) that would have housed approximately 6,000 inmates with a total construction cost of \$1.4 billion. This major policy issue is better vetted through the normal legislative process.

Some of the General Fund augmentations provided in SB 77 include:

- \$271.5 million related to previously negotiated compensation increases for CDC employees.
- \$35 million to reduce salary savings rates to fund critical posted positions.
- \$13.3 million and 59.6 positions to implement improvements in the dental program in order to avert a class action lawsuit which represents a \$4 million reduction from the Administration's proposal.
- \$5.8 million and 46 positions to address personnel and physical plant security and safety issues at California Institution for Men in Chino. This is in response to the officer stabbing death that occurred at the institution.
- \$5.2 million and 59.6 personnel years in order to comply with a court order issued under the *Coleman* lawsuit. These funds will be used to implement the revised guidelines for the mental health service delivery system in the Administrative Segregation Unit and Security Housing Unit at the California State Prison-Corcoran and to fund recruitment and retention pay differentials for mental health positions at 12 institutions.

Department of the Youth Authority. Some General Fund augmentations provided in SB 77 include:

- \$16.7 million related to previously negotiated compensation increases for Youth Authority employees.
- \$10.1 million to reflect the need to adjust downward reimbursements to actual levels and backfill with General Fund.
- \$6.7 million to implement disability, sex offender treatment, and mental health remedial plans required by the *Farrell v. Allen* lawsuit.
- \$1.5 million to fund a training needs assessment, develop curricula and provide additional training.

Board of Corrections. SB 77 proposes \$201.4 million General Fund for county youth probation programs and related trailer bill transfers responsibility to administer these funds to the Board from the Department of Special Services and specifies county funding allocation. The Administration proposed that federal Temporary Assistance for Needy Families funds be used to support these programs.

Office of the Inspector General. SB 77 includes \$3.6 million General Fund and 24 positions as the result of developing a workload budget consistent with the legislative requirements of Chapter 733, Statutes of 2004 (SB 1342-Speier). An additional \$3.0 million General Fund and 19 positions is provided to conduct the warden selection and institutional audit processes as required pursuant to Chapter 10, Statutes of 2005 (SB 737-Romero, et. al.). These amounts

reflect reductions to the Administrations requests due to positions being budgeted at the highest salary step and more realistic hiring timeframes.

General Government

Office of Emergency Services/Homeland Security. SB 77 reflects rejection of the Administration's proposal to establish a separate independent Office of Homeland Security. However, the Budget Conference Committee approved the Administration's proposal to provide an increase of federal fund authority of \$146.4 million for homeland security activities. \$117.1 million will be allocated to local agencies (grantees) for homeland security activities and \$29.3 million, to fund 21 additional positions, of which \$22 million will be provided to other state agencies such as the Department of the Military. A related budget trailer bill requires the Director of Homeland Security and the Department of Health Services to report on federal homeland security and bioterrorism funding expenditures.

SB 77 provides \$35 million General Fund (\$32.8 million local assistance and \$2.2 million state operations) for the estimated costs of response and recovery efforts related to federally declared disasters in Southern California caused by flooding and mudslides, and \$5 million General Fund to purchase new fire engines for mutual aid support.

SB 77 reflects the reduction of \$4 million General Fund to certain public safety local assistance grant programs. The Administration proposal eliminates funding for the following programs: Community Crime Resistance Program; Career Criminal Apprehension Program; Serious Habitual Offender Program; Vertical Defense of Indigents; and Drug Abuse Suppression in Schools Program. In addition, the Rural Crime Prevention Program is reduced by \$1.9 million leaving a base funding level of \$1.4 million. We believe restoration of the \$1.9 million has merit.

Tribal Gaming/Gambling Control Commission. SB 77 includes a legislatively proposed one-time funding augmentation of \$20 million from the Special Distribution Fund to increase grants to local governments to mitigate the impacts of tribal gaming.

The Budget Conference Committee rejected the Administration's proposal to provide additional resources for Tribal-State Gaming Compact Workload.

Office of Administrative Law. SB 77 includes an increase of \$224,000 General Fund and 2.0 positions, for a total General Fund budget of \$2.4 million, to determine whether particular state rules, guidelines, and other documents, are in fact regulations subject to the regulatory review process, and to enforce provisions of the current law that restrict state agencies from issuing, utilizing, or enforcing "underground regulations."

Hexavalent Chromium Pollution Program. SB 77 and related trailer bills appropriate \$2 million to fund AB 721 (Nunez), which creates a loan program to assist small chrome plating operations in meeting regulatory standards. Governor Schwarzenegger vetoed a similar measure last year (AB 2567-Nunez).

Tourism. SB 77 rejects the Administration's proposal to provide \$7.3 million General Fund to the California Travel and Tourism Commission for statewide tourism marketing.

Auditors and Other Revenue Generating Positions. SB 77 increases spending by \$10.6 million to fund 145 auditors, attorneys, and other positions at the Franchise Tax Board, the Board of Equalization, and the Employment Development Department. These positions were not requested by the Administration. However, SB 77 assumes revenues of \$32.5 million in 2005-06 as a result of these augmentations. If these positions remain vacant, are redirected to other functions, or fail to meet revenue recovery goals, SB 77 could result in unrealizable revenue assumptions

Misdemeanor Program. SB 77 and related trailer bill augments the budget by \$1.2 million for a legislative proposal for the Franchise Tax Board to prosecute more “grossly errant” taxpayers with misdemeanors. The Legislature assumed \$2.5 million in General Fund revenue associated with this proposal.

Ready Return. SB 77 allows the Franchise Tax Board (FTB) to spend up to \$215,000 to continue a controversial pilot program initiated in current year that sends pre-filled out tax forms to single tax-filers with no dependants. This level of funding could allow the FTB to select over 50,000 possible participants.

Office of Statewide Printing. SB 77 rejects the Administration’s proposed reduction of \$6.2 million and 120 positions at DGS’ Office of State Publishing (OSP). The reduction proposal follows declining state agency printing contracts and a statewide shift to more digital technology printing and Internet publishing. The OSP has incurred \$14.3 million in losses over the last ten years, including a \$5.5 million loss in 2003-04 (a 27 percent revenue decrease).

In a related proposal, SB 77 rejects an Administration proposal to extend an exemption that allowed departments to use outside contractors to print small batches of materials.

Ban on Deficiency Funding for Special Elections. SB 77 prohibits the Department of Finance from seeking deficiency funding or supplemental appropriations for any costs associated with a statewide special election.

Department of Housing and Community Development (HCD). SB 77 and the corresponding trailer bill extend the HCD’s fee and regulatory authority over enterprise zones to the three additional economic development area programs: Local Agency Military Base Recovery Area Program, the Manufacturing Enterprise Areas Program, and the Targeted Tax Area Program. The sunset date for the program is also extended to July 1, 2009.

State Teachers Retirement System (STRS). SB 77 rejects the Governor’s proposal to shift full responsibility for the state’s contribution of 2.017 percent for the Defined Benefit Program to school districts and/or covered employees. This proposal would have resulted in General Fund savings of \$469 million in 2005-06. This shift would have more accurately aligned the compensation value of new benefits with the responsibility to pay the costs of those benefits.

Augmentation for Employee Compensation. SB 77 rejects the Governor’s proposal to reduce employee compensation through various proposals, including furlough of state employees, elimination of two state holidays, increased retirement rate participation, and other compensation changes which would have resulted in General Fund savings of \$407 million in 2005-06.

Local Government

Citizens' Option for Public Safety/Juvenile Justice Crime Prevention Act. SB 77 provides \$100 million General Fund for the Citizens' Option for Public Safety (COPS) program, and \$100 million General Fund for the Juvenile Justice Crime Prevention Act (JJCPA) program. The Administration proposed funding the JJCPA program at \$26.1 million for one year to realign and adjust allocation timing to better match expenditures which would result in a one-time General Fund Savings of \$73.9 million. Currently, the JJCPA program is funded one year in advance, unlike the COPS program.

Payments to Counties for Costs of Homicide Trials. SB 77 rejects the budget bill language proposed by the Administration to reimburse 100 percent of the audited costs incurred by the County of Stanislaus for the homicide trial *People v. Scott Petersen*.

Mandates. SB 77 funds \$119.4 million in General Fund for non-education mandate costs in 2004-05 and estimated 2005-06 costs (not including the AB 3632 mandates). After many years of legally deferring the payment of state mandates, the passage of Proposition 1A last November changed the law to require that if a mandate is not fully funded in the subsequent State budget, the mandate would be suspended. The proposition also required that the existing mandate debt (approximately \$1 billion) would be repaid to local governments over five years, beginning in 2006. Although this \$119.4 million in funding is a significant first step toward paying cities and counties for state mandates, the Legislative Analysts Office estimates that the state may be under-funding mandates by at least \$65 million for 2005-06.

SB 77 also rejects the Governor's proposed repeal of the AB 3632 (mental health services for special needs students) mandates and appropriates another \$120 million General Fund to continue to require county mental health department to perform services that are performed by schools in other states. Federal law (the Individuals with Disabilities Education Act) requires states to guarantee disabled students the right to receive a free and appropriate public education that emphasizes special education and related services, which may include mental health services. This federal requirement on the state and local education agencies is a federal mandate, and federal mandates are generally not state reimbursable. However, state legislation enacted in the mid-1980s (AB 3632) shifted the responsibility for mental health-related services to special education students from schools to counties, and thereby created a reimbursable state mandate for which reimbursement claims exceed \$140 million per year.

Partial Vehicle License Fee Gap Loan Repayment. SB 77 rejects the Administration proposal to repay cities and counties for \$593.4 million (about half) of the vehicle license fees (VLF) that they did not receive in 2003-04 due to the suspension of the VLF offset. Instead, SB 77 sets aside \$25 million for (1) for advance payments of the Vehicle License Fee gap loan amounts owed to cities and counties experiencing "fiscal hardship" and (2) subventions to cities and special districts for reimbursement of booking fees paid to counties. Allocation shall be based on the Director of Finance's determination that a particular financial hardship exists in the local government entity. However, it is unlikely that \$25 million statewide will significantly improve the financial condition of local governments. Payment of the VLF gap loan is not required until 2006-07, but prepaying a portion of it in 2005-06 would have relieved state budget pressure in 2006-07 and provided much-needed revenues to local governments earlier.

Rural Sheriff Department Funding. SB 77 includes \$18.5 million from the General Fund for allocation to county sheriffs' departments to enhance law enforcement efforts in the counties specified under current statute.

Property Tax Administration Grant Program. SB 77 includes full funding of \$60 million for the Property Tax Administration Grant Program.

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